

OGC HAS REVIEWED.

29 August 1955

MEMORANDUM FOR: Director of Personnel

SUBJECT: Dual Compensation - P.L. 239, 84th Cong.,  
amending P.L. 212, 72nd Cong. (5 U.S.C. 59(a))

1. On 4 August 1955 P.L. 239, 84th Cong., was enacted into law. Section 2 of that Act liberalizes the restrictions on dual compensation contained in P.L. 212, 72nd Cong., 5 U.S.C. 59(a). The effect of the amendment on this Agency will be to allow the Agency to compensate a larger group of retired commissioned officers than was possible in the past.

2. Prior to the enactment of the recent amendment, commissioned officers retired for disability incurred in combat or caused by an instrumentality of war were exempt from the dual-compensation restrictions of both 5 U.S.C. 59(a) and 5 U.S.C. 62. This has not been changed. Under the provisions of 5 U.S.C. 59(a) prior to the recent amendment, other retired officers were precluded from concurrent receipt of civilian compensation and retired pay on account of commissioned service at a combined annual rate in excess of \$3,000. The recent amendment of section 59(a) changes this to allow dual compensation up to a combined annual rate of \$10,000. However, due to an apparent oversight on the part of Congress, the liberalization is partially ineffective except in the case of officers retired for noncombat disability. Congress failed to amend Section 2 of the Act of July 31, 1894, as amended, (5 U.S.C. 62) which prohibits the holding of two offices, except in the case of officers retired for disability, if the compensation of either office amounts to the sum of \$2,500 per annum. Thus the only practical effect of the amendment is to increase to \$10,000 the total of dual compensation which may be received by an officer retired for disability not incurred in combat or resulting from an instrumentality of war. The amendment also serves to benefit officers retired for longevity whose retired pay is less than \$2,500 per year in that they may hold a civilian position so long as compensation from it is less than \$2,500 per year, but under present civilian pay scales this possibility is of little practical value to the Agency.

3. The net result of the law as amended is to place retired commissioned officers in three categories insofar as eligibility for receipt of compensation from two offices is concerned.

(a) There is no restriction on officers retired for disability incurred in combat or caused by an instrumentality of war.

(b) Officers retired for injuries or incapacity incurred in line of duty but not incurred in combat or caused by an instrumentality of war may receive concurrently civilian pay and retired pay on account of commissioned service at a combined annual rate not in excess of \$10,000.

(c) Other retired commissioned officers may not hold a second office if the compensation from either retirement or the second office amounts to \$2,500.

4. You will probably want to review the contracts of any retired officers who may be affected by the new law and to explain its application to officers under consideration for employment who may be able to take advantage of the liberalized provisions of the law. A copy of the Act is forwarded for your use.

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Attachment

OGC:JIM:mz

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# MISSING PAGE

ORIGINAL DOCUMENT MISSING PAGE(S):

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